# CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	✓ Discourt.	
				I <sup></sup>	_	_
Conor O'Shea		Squad #6	201808743	☑ Abuse	O.L.	✓ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Sunday, 10/21/2018 4:25 PM		Intersection of Gates A Garvey Boulevard	venue and Marcus	81	4/21/2020	12/6/2020
Date/Time CV Reported		CV Reported At:	How CV Reported	Date/Tin	ne Received at CCI	RB
Mon, 10/22/2018 1:18 PM		CCRB	In-person	Mon, 10	/22/2018 1:18 PM	[
Complainant/Victim	Туре	Home Addre	ess			
Witness(es)		Home Addre	ess			_
Subject Officer(s)	Shield	TaxID	Command			
1. POM Anthony Medina	11553	955175	081 PCT			
2. POF Jeanene Martinez	09256	963634	081 PCT			
3. POM Jimmy Romero	05585	962062	081 PCT			
4. POM Dylan Mattern	26213	964150	081 PCT			
5. POM Michael Swift	26931	931288	081 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. SGT Gina Morningkelleher	01882	942235	081 PCT			
Officer(s)	Allegatio	on		In	vestigator Recon	nmendation
A.POM Dylan Mattern		olice Officer Dylan Mat t for an individual.	ttern did not obtain 1	nedical		
B.POM Jimmy Romero		olice Officer Jimmy Ro t for an individual.	mero did not obtain	medical		
C.POF Jeanene Martinez		esy: Police Officer Jean eously to \$87(2)(6)	ene Martinez spoke			
D.POF Jeanene Martinez		olice Officer Jeanene M h the use of force.	lartinez threatened	87(2) )		
E.POF Jeanene Martinez	Abuse: P § 87(2)(b)	olice Officer Jeanene M	fartinez threatened to	o arrest		
F.POM Dylan Mattern		esy: Police Officer Dyla eously to \$87(2)(6)	n Mattern spoke			
G.POF Jeanene Martinez		esy: Police Officer Jean Pously to \$87(2)(b)	ene Martinez spoke			
H.POM Anthony Medina	Force: Po	olice Officer Anthony M	fedina used physical	force		
I.POF Jeanene Martinez	Force: Powith a Ta	olice Officer Jeanene Ma nser.	artinez struck § 87(2)(b)			

Officer(s)	Allegation	Investigator Recommendation
J.POF Jeanene Martinez	Force: Police Officer Jeanene Martinez struck with handcuffs.	
K.POF Jeanene Martinez	Force: Police Officer Jeanene Martinez attempted to discharge a Taser at §87(2)(6)	
L.POM Dylan Mattern	Force: Police Officer Dylan Mattern used physical force against § 87(2)(6)	
M.POM Jimmy Romero	Force: Police Officer Jimmy Romero used physical force against § \$7(2)(6)	
N.POM Jimmy Romero	Force: Police Officer Jimmy Romero restricted breathing.	
O.POM Dylan Mattern	Force: Police Officer Dylan Mattern used a chokehold against §87(2)(6)	
P.POM Dylan Mattern	Force: Police Officer Dylan Mattern restricted § \$7(2)(b) breathing.	
Q.POM Jimmy Romero	Force: Police Officer Jimmy Romero used a chokehold against [887(2)(0)]	
R.POM Dylan Mattern	Force: Police Officer Dylan Mattern used physical force against [887(2)(6)]	
S.POM Anthony Medina	Discourtesy: Police Officer Anthony Medina spoke discourteously to \$\frac{87(2)(0)}{2}	
T.POF Jeanene Martinez	Force: Police Officer Jeanene Martinez restricted breathing.	
U.POF Jeanene Martinez	Discourtesy: Police Officer Jeanene Martinez spoke discourteously to §87(2)(6)	
V.POM Michael Swift	Discourtesy: Police Officer Michael Swift spoke discourteously to \$87(2)(6)	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
5.07(2)(-) 5.07(1.1)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

### **Case Summary**

The summary
On October 22, 2018, \$87(2)(b) filed this complaint in person at the CCRB on behalf of
himself and two individuals whom he did not know: \$87(2)(0) and an unidentified child.
On October 21, 2018, shortly before 4:25 p.m., a vehicle struck an unidentified child in an
apparent hit-and-run at the intersection of Gates Avenue and Marcus Garvey Boulevard in
Brooklyn. An unidentified male bystander ran up to Police Officer Dylan Mattern and Police
Officer Jimmy Romero, both of the 81st Precinct, who were on a foot post at that intersection, and
requested that they help the child. PO Mattern and PO Romero refused (Allegations A and B:
Abuse of Authority, Sercice Meanwhile, Police Officer Jeanene Martinez and Police
Officer Anthony Medina, also of the 81st Precinct, drove by and assisted PO Mattern and PO
Romero. A crowd formed, including \$87(2)(6) his brother, \$87(2)(6) and \$87(2)(6) PO
Martinez allegedly told (Get the fuck out of here before we kill you, before you get
locked up" (Allegation C: Discourtesy, SSTONE) Allegation D: Abuse of Authority,
Allegation E: Abuse of Authority, \$ \$7000 PO Mattern allegedly told \$ \$7000
to "Get the fuck out of here" (Allegation F: Discourtesy, STOO) PO Martinez allegedly
said, "Fuck you" to \$370,000 and ordered him to "Get the fuck out of here" (Allegation G:
Discourtesy, § 87(2)(g)
PO Medina grabbed \$87(2)(6) in a bear-hug and they fell to the ground (Allegation H:
Force, \$87(2)(2) PO Martinez struck \$87(2)(3) on his head with a Taser three times
(Allegation I: Force, \$87000) PO Martinez allegedly struck \$87000 on his head with
handcuffs (Allegation J: Force, \$870)@ PO Martinez attempted to drive-stun \$87000 in
the neck with a Taser (Allegation K: Force, \$100.9)  PO Mattern and PO Romero took \$100.9
the neck with a Taser (Allegation K: Force, \$870.00 PO Mattern and PO Romero took to the ground (Allegations L and M: Force, \$870.00 PO Romero kneeled on \$300.00
chest, restricting his breathing (Allegation N: Force, \$87(2)(2) At the same time,
PO Mattern put his left forearm against \$37(2)(6) throat, allegedly further restricting his
breathing (Allegation O: Force, \$87(2)@ Allegation P: Force, \$87(2)@
stood up. PO Romero allegedly put service in a two-armed chokehold
(Allegation Q: Force, \$87(2)(2) PO Mattern took \$87(2)(3) to the ground (Subsumed
within Allegation L). PO Mattern allegedly bit \$30000 on his back (Allegation R: Force,
PO Medina ordered \$57(2)(6) to "Get the fuck back" (Allegation S:
Discourtesy, SSTONE PO Martinez allegedly restricted SSTONE breathing by kneeling on
his back (Allegation T: Force, \$370)© Police Officer Michael Swift and Sergeant Gina
Morning-Kelleher, both of the 81 <sup>st</sup> Precinct, responded as backup. PO Martinez and PO Medina
drove \$87(2)(0) back to the 81st Precinct stationhouse. En route, PO Martinez allegedly repeatedly
said, "Fuck you" to \$37000 (Allegation U: Discourtesy, \$37000 Meanwhile, \$37000
allegedly approached PO Swift and asked what would happen to \$87(0) PO Swift
allegedly said said "Can't do shit" about said arrest, and ordered him to "Get the fuck
out of here. I run Bed-Stuy" (Allegation V: Discourtesy, \$870.00
§ 87(2)(g), § 87(4-b)
3 O/L/AB, 3 O/L-O/

was arrested (**Board Review 01**) for: three counts of second-degree assault on a police officer; one count of resisting arrest; one count of second-degree obstructing governmental administration; one count of criminal mischief; and one count of disorderly conduct under the subsection for fighting or violent behavior. § 87(2)(b) and \$87(2)(b) both recorded portions of the incident and its aftermath on their cell phones. § 87(2)(b) three videos and their summaries can be found at **Board Review 02** and 03, Board Review 04 and 05, and Board Review 06 and 07, respectively. §87(2)(6) videos and their summaries can be found Board Review 08 and 09, Board Review 10 and 11, respectively. The investigation also obtained surveillance footage from video cameras positioned on a nearby apartment building, overlooking part of the incident. The four angles of surveillance video and each of their summaries can be found at Board Review 12-15 and Board Review 16-19, respectively. There is no BWC footage in this case due to a BWC recall on the incident date. All references in this report to video evidence refer to the time-stamp in the video player. On October 25, 2019, the CCRB referred PO Martinez and PO Mattern's false-officialstatement allegations to IAB under CCRB cases \$87(2)(b) respectively. The referrals for PO Martinez and PO Mattern's false-official-statement allegations generated IAB Logs § 87(2)(b) respectively.

#### Findings and Recommendations

Allegation A—Abuse of Authority: Police Officer Dylan Mattern did not obtain medical treatment for an individual.

Allegation B—Abuse of Authority: Police Officer Jimmy Romero did not obtain medical treatment for an individual.

The following facts are undisputed. On October 21, 2018, at approximately 4:18 p.m., PO Romero and PO Mattern set up at their Skywatch foot post on the northeast corner of Gates Avenue and Marcus Garvey Boulevard in Brooklyn, on the border of the 81st and 79th Precincts and facing the intersection. At approximately 4:22 p.m., a vehicle struck an unidentified child, who was crossing the street at that same intersection with a bicycle, adjacent to and within eyesight of PO Romero and PO Mattern's foot post. The driver fled the scene, unapprehended, in an apparent hitand-run. The child victim stood up and finished crossing the street, remaining on the corner closest to PO Romero and PO Mattern for some period of time. An unidentified man wearing a black jacket over a red hooded sweatshirt approached PO Mattern and PO Romero at their foot post and told them what happened. The unidentified man asked PO Mattern and PO Romero to help the child but they refused. Instead, PO Mattern and PO Romero argued with him. PO Mattern and PO Romero briefly looked down nearby streets and determined that they did not see an obvious hitand-run victim lying down; however, neither of them ever located, nor rendered aid to, the child victim. Neither PO Mattern nor PO Romero notified anyone, or generated any paperwork, about the hit-and-run. PO Mattern and PO Romero did not inquire about the hit-and-run from anyone else on scene, nor did they speak with other civilians standing on the nearby street corner about it.

The investigation was unable to identify the child victim, the man who reported the hitand-run, or any additional civilian bystanders despite document requests and a field canvas.

Based on surveillance video footage and a Precinct map of the area (**Board Review 20**), the investigation determined that the hit-and-run occurred exactly as the child exited the 79<sup>th</sup> Precinct and entered the 81<sup>st</sup> Precinct, within eyesight of PO Mattern and PO Romero's foot post.

Video footage from surveillance camera #9 at 650 Gates Avenue (**Board Review 14**) depicts the following. At the 07:33 mark, an individual, identified as the unidentified child, enters the crosswalk at the top left portion of the screen. A vehicle strikes the child in the crosswalk. At the 07:42 mark, an individual rushes up to the child victim of the hit-and-run in

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the street and puts a hand on the child, right as \$\frac{857(2)}{2}\$ dressed in all blue and carrying a white bag over his shoulder, and the unidentified man who later reported the hit-and-run, dressed in a black jacket with a red hoodie underneath, arrive on scene. The individual who rushed up to the child victim escorts the child across the sidewalk, while another individual appears to pick up the child's bicycle in the crosswalk. At the 07:53 mark, the individual who rushed up to the child victim walks with the child victim onto the sidewalk at the corner of 650 Gates Avenue, while several other individuals also stand on the corner. Beginning at the 08:12 mark, some individuals on the corner walk around the sidewalk area near the corner; some wander off several paces before returning, while others remain more on the corner. At the 08:43 mark, the child's bicycle is visible on the corner, where it remains visible when the officers join the crowd on the sidewalk a minute later.

Video footage from surveillance camera #8 at 650 Gates Avenue (**Board Review 13**) provides the best angle to view the ensuing events. At the 08:46 mark, the unidentified man in the black jacket with a red hoodie underneath walks from the street corner—depicted in the top/middle portion of the screen—into the street and approaches PO Mattern and PO Romero's off-screen foot post while remains on the corner. By the 09:05 mark, a marked police SUV—identified by the investigation as PO Martinez and PO Medina's patrol car—drives into the frame and stops in the middle of the street, near PO Mattern and PO Romero's off-screen foot post. By the 09:19 mark, street walks from the corner out into the street towards the officers and the unidentified man as traffic backs up behind PO Medina and PO Martinez's patrol car. At this time, several individuals remain on the sidewalk and corner of the intersection where the hit-and-run occurred. By the 09:29 mark, the officers, street corner and the unidentified man walk back to the street corner and form a crowd as they appear to engage with each other.

PO Mattern (**Board Review 21, 22**) acknowledged that he did not take any steps to determine where the child had been hit by the car, because the unidentified man described the crime he had just witnessed as if it had "already happened." PO Mattern also did not notify anyone in the 79<sup>th</sup> Precinct about the reported crime, because the unidentified man did not provide "any real information to go off of," such as the exact street on which it occurred. PO Mattern did not obtain medical treatment for the child, nor did he take any steps to do so.

PO Romero (**Board Review 23, 24**) testified that the only steps he took to identify the hit-and-run victim was to briefly look and walk around the nearby area, at which point he did not see an ambulance or anyone lying on the ground. During his second CCRB interview (**Board Review 24**), PO Romero was initially nonresponsive to questioning about whether he took any steps to obtain medical treatment for the child victim, but ultimately testified that the only steps he took were: exiting his van, looking around briefly, seeing that no one was lying down on the ground, and listening to the radio for any radio-runs in regards. PO Romero acknowledged that there was a crowd on the nearby street corner containing a "mix" of people of all ages, including "young people," but did not engage with them.

NYPD police officers must "[r]ender all necessary police service in assigned area and as otherwise directed." NYPD Patrol Guide Procedure 202-21 (Board Review 25). NYPD Patrol Guide Procedure 216-01 (Board Review 26) addresses "aided" cases, or situations in which a non-arrestee requires medical aid or assistance, and requires that members of service "render reasonable aid" to such a person and request an ambulance if needed. However, by its own terms, Patrol Guide Procedure 216-01 does not apply to "vehicle or bicycle collision" cases. Instead, Patrol Guide Procedure 217-01 (Board Review 27) applies: "Upon notification or observation of a vehicle collision," uniformed members of service are required to "ascertain if there are any injuries and request ambulance if needed" and take additional steps if "serious physical injury is involved." If a physical injury of any severity occurs, NYPD Patrol Guide Procedure 217-18 requires that

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members of service take specific additional steps, regardless of whether the officer personally witnessed the collision (**Board Review 28**).

Although Patrol Guide Procedure 216-01's requirement to render reasonable aid does not explicitly apply to this incident—seeing as it involves a vehicle collision, which 216-01 exempts from its purview—the investigation determined that its spirit, especially in the requirement to "render reasonable aid" as an additional step to accompany "request an ambulance," nevertheless remains. It would be incoherent for the Patrol Guide to require that officers render reasonable aid to non-arrestees for injuries sustained in non-vehicle collision cases, but to have no such obligation in vehicle collision cases, especially given the increased potential for serious physical injury or death in vehicle collisions. As such, the investigation determined that the spirit of the render-aid requirement from Patrol Guide Procedure 216-01 helps give meaning to the analogous requirements in Patrol Guide Procedure 217-01, which charges officers in PO Mattern and PO Romero's position, upon notification of a vehicle collision, to "ascertain if there are any injuries and request ambulance if needed." Patrol Guide Procedure 217-18 also implores officers to take proactive actions upon notification of a vehicle collision, even if they did not personally witness it.

Given the explicit requirements of <u>Patrol Guide Procedure 217-01</u>, and in keeping with the spirit of <u>Patrol Guide Procedure 216-01</u>, the general duties of police officers in <u>Patrol Guide Procedure 202-21</u>, as well as the NYPD's commitment to protecting and valuing human life (see, e.g., <u>Patrol Guide Procedure 200-02</u> [**Board Review 29**]), the investigation determined that PO Mattern and PO Romero had an affirmative obligation under the circumstances to at least attempt to render reasonable aid to the child victim of the hit-and-run. Although such an attempt may have proven unsuccessful in locating the child, and although it may ultimately have proven unnecessary to call an ambulance, as police officers PO Mattern and PO Romero were required to at least try to render reasonable aid under the circumstances.

Yet, by PO Mattern and PO Romero's own testimony, they failed to do so. PO Mattern acknowledged that he did not attempt to render aid to the child victim, and did not seek additional information in regards because the unidentified man reported the hit-and-run using the past tense. During PO Romero's second CCRB interview, after initially and repeatedly refusing to say whether he attempted to render aid to the child victim, PO Romero ultimately provided a list of "steps" that he took to do so, which included: exiting his vehicle, briefly looking around, not seeing anyone lying on the ground, and listening to the radio.

Almost immediately after receiving an in-person report of a hit-and-run involving a child victim, PO Mattern and PO Romero concluded, without evidence, that the reported crime either did not occur, or, if it did occur, was either impossible to address or not worth addressing. They proceeded to argue with the person who reported the crime in the first place—all without ever attempting to locate the child, ascertain if the child had injuries, or rendering reasonable aid if necessary.

STOIC

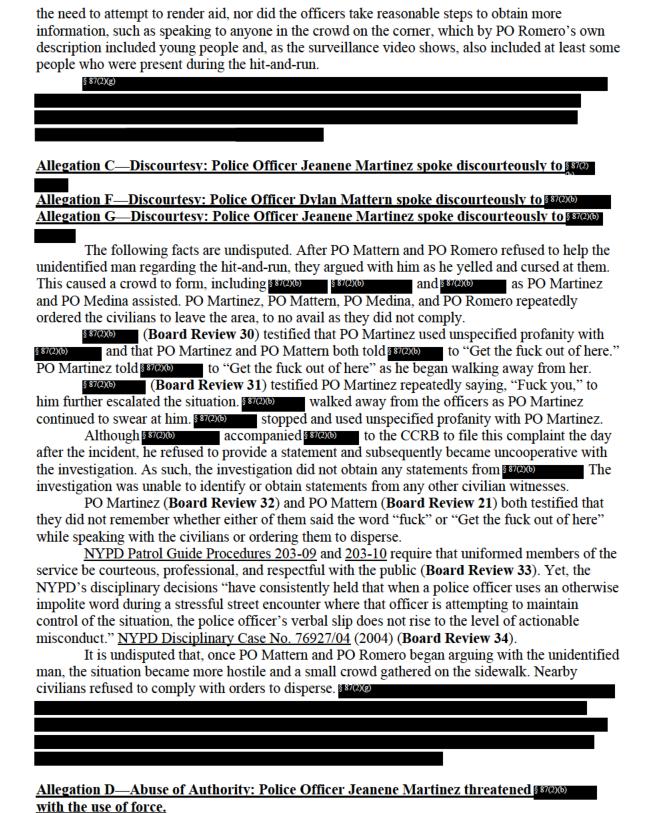
For although PO

Romero and PO Mattern did not observe anything on scene to provide additional information beyond what the hit-and-run reporter provided, their observations did not disprove the hit-and-run or the existence of a victim in need of aid, and they did not make a reasonable effort to obtain more information in regards, as required, either.

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Their observations did not disprove

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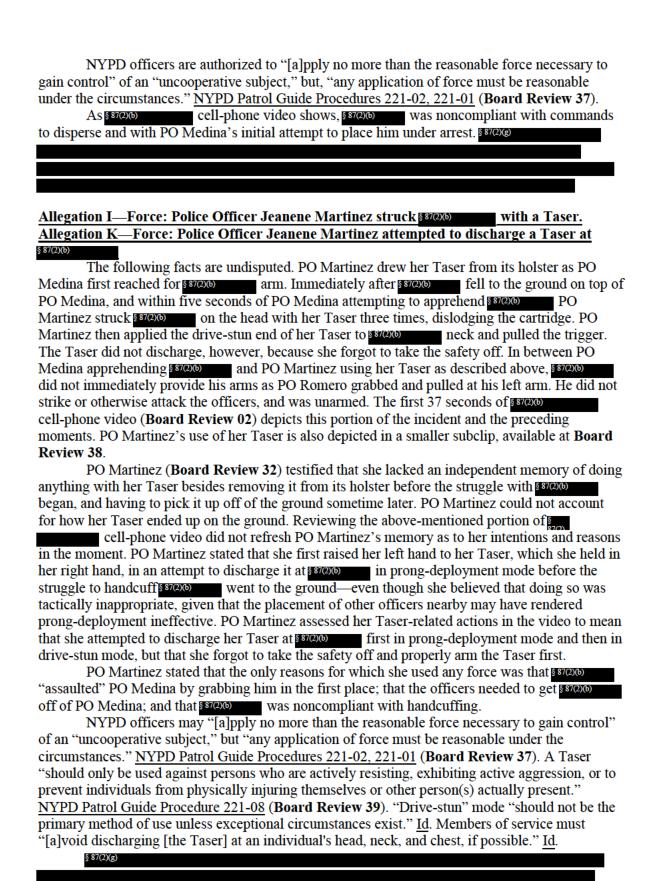
## Allegation E—Abuse of Authority: Police Officer Jeanene Martinez threatened to arrest The following facts are undisputed. As discussed previously, the argument on the sidewalk between the unidentified man and PO Mattern and PO Romero escalated as it went on. Although the officers ordered the civilians to leave, and \$37000 did begin to do so, \$37000 remained part of the crowd. \$87(2)(6) was not arrested. Prior to this incident, \$87(2)(6) and \$87(2)(6) never met each other and had no pre-existing relationship. As such, the investigation considers them each to be independent eyewitnesses to each other's allegations. ■ (Board Review 30) alleged that PO Martinez told him to "Get the fuck out of here before we kill you, before you get locked up." (Board Review 31), PO Martinez (Board Review 32), and PO Mattern (Board Review 21) all denied hearing any officer say they would "kill" someone. In order to make a lawful arrest, an NYPD officer must possess "reasonable cause to believe [that an] offense [was] committed in [her] presence." NYPD Patrol Guide Procedure 208-01 (Board Review 35). In New York State, a person commits the offense of disorderly conduct when, "with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, ... [h]e congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse." NY Penal Law § 240.20 (Board Review 36). Given that \$3000 is an independent eyewitness with respect to allegations against and that (8870) corroborated PO Martinez and PO Mattern's denials that an officer threatened to "kill" \$ 87(2)(b) § 87(2)(g) Allegation H—Force: Police Officer Anthony Medina used physical force against It is undisputed that, as the argument on the sidewalk wore on, the officers repeatedly ordered the civilians to disperse but they did not comply. It is further undisputed that [89(2)6) was ultimately arrested for disorderly conduct, obstructing governmental administration in the second degree, resisting arrest, assault on a police officer, and criminal mischief (Board Review 01). He later pleaded guilty to just one count of resisting arrest. cell-phone video (Board Review 02) captures most of the beginning of the incident, and the moments leading up to PO Medina initiating saveyon arrest. Between the 00:12 and 00:22 marks, save wearing all blue, walks away from the group of officers towards the intersection. He briefly stops, turns to the officers, appears to say something, and gesticulates with one hand while he holds an Old Navy shopping bag in the other. PO Martinez appears to saying something to him and gestures as if ordering him to leave. Between the 00:22 and 00:37 marks, \$37000 takes a few steps further away from the officers and towards the intersection as PO Medina approaches him and appears to say something. PO Medina then rushes chest to chest, and continues talking. PO Medina reaches for \$87(2)(6) with his right hand, but misses as \$3000 continues walking away from the officers. PO Medina

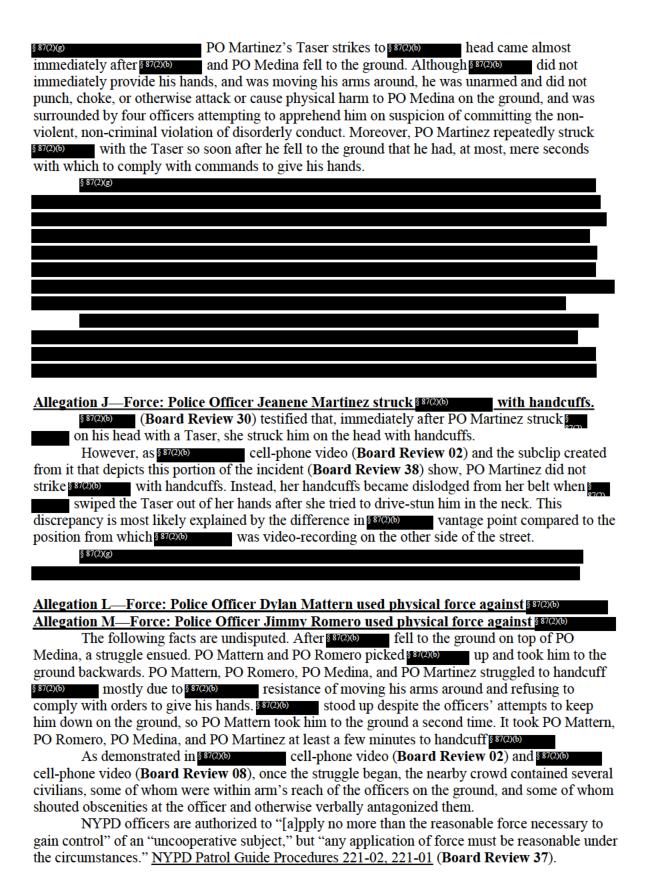
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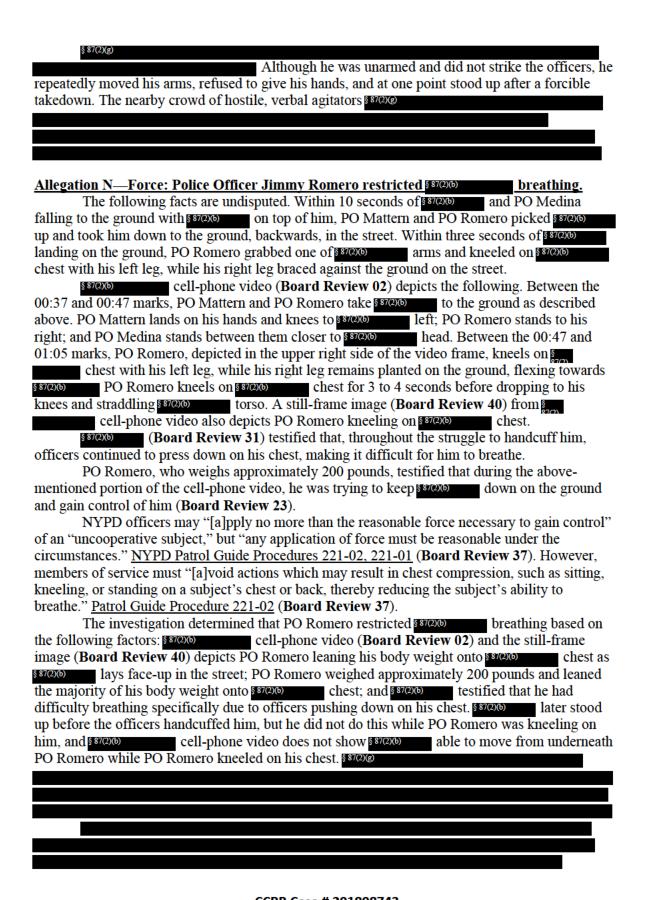
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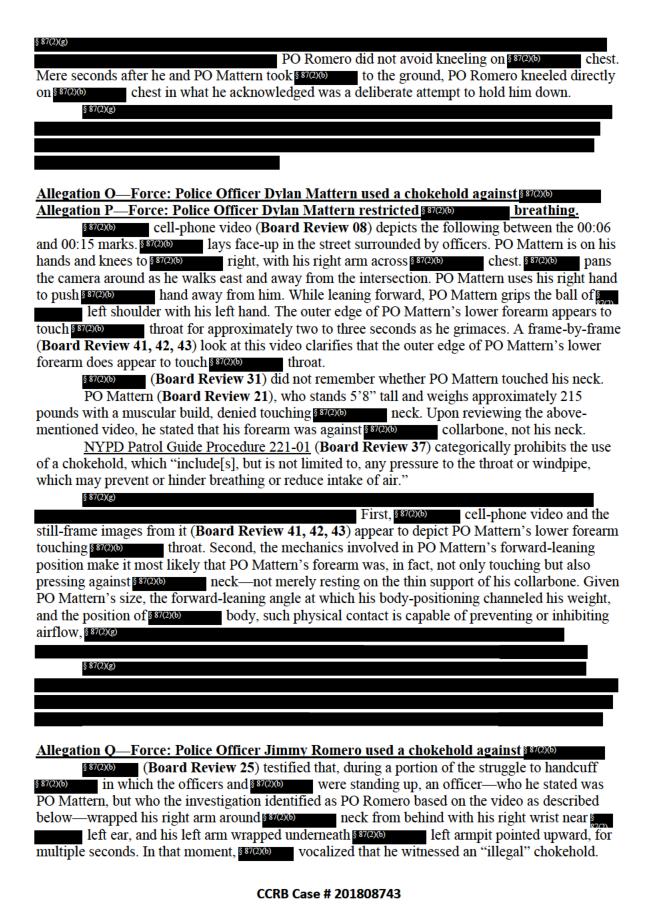
immediately does the same in response. They fall to the ground together and a struggle ensues.

pursues \$87(2)(b) further and wraps his arms around his torso in a bear-hug; \$87(2)(b)



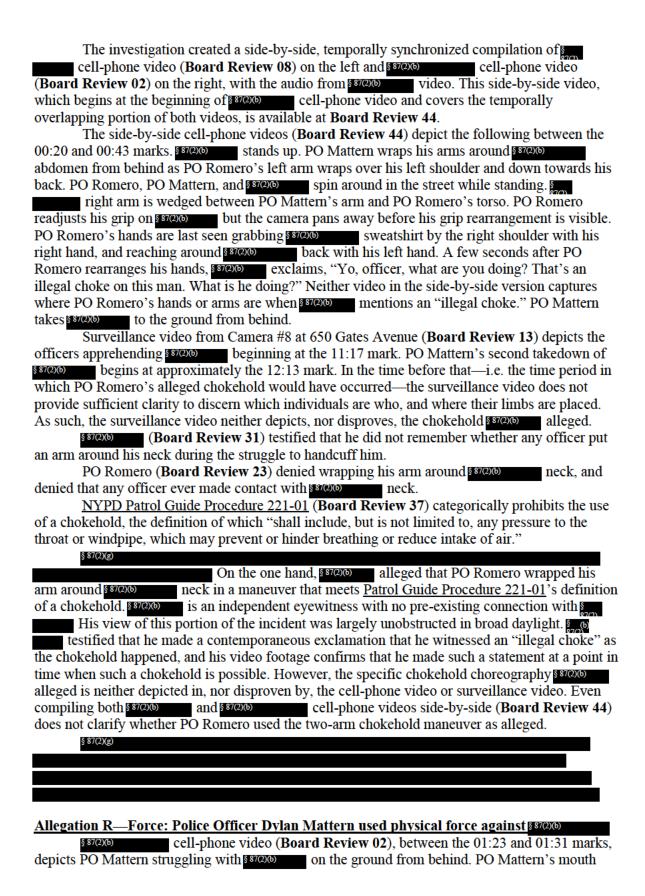


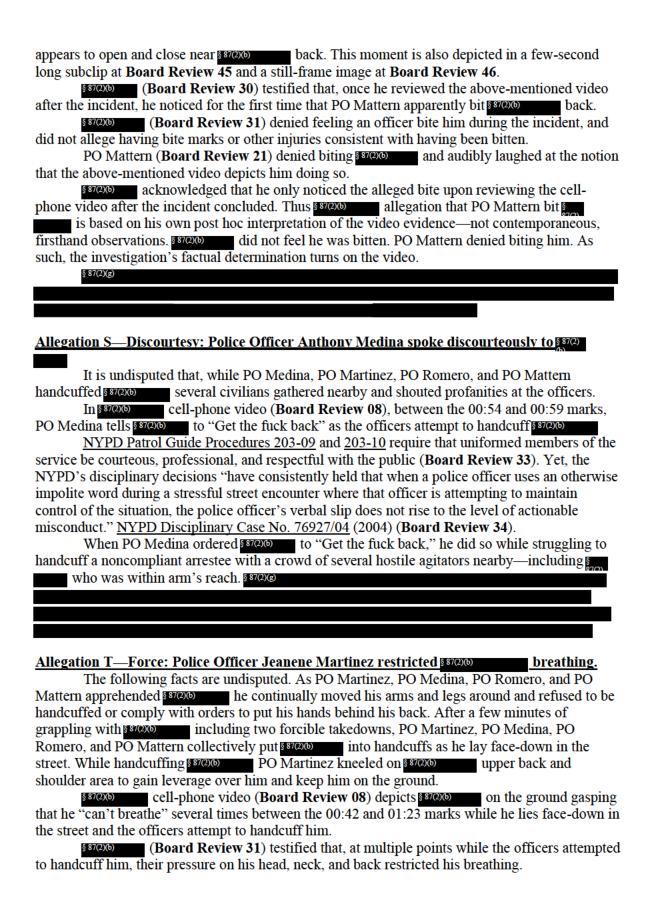


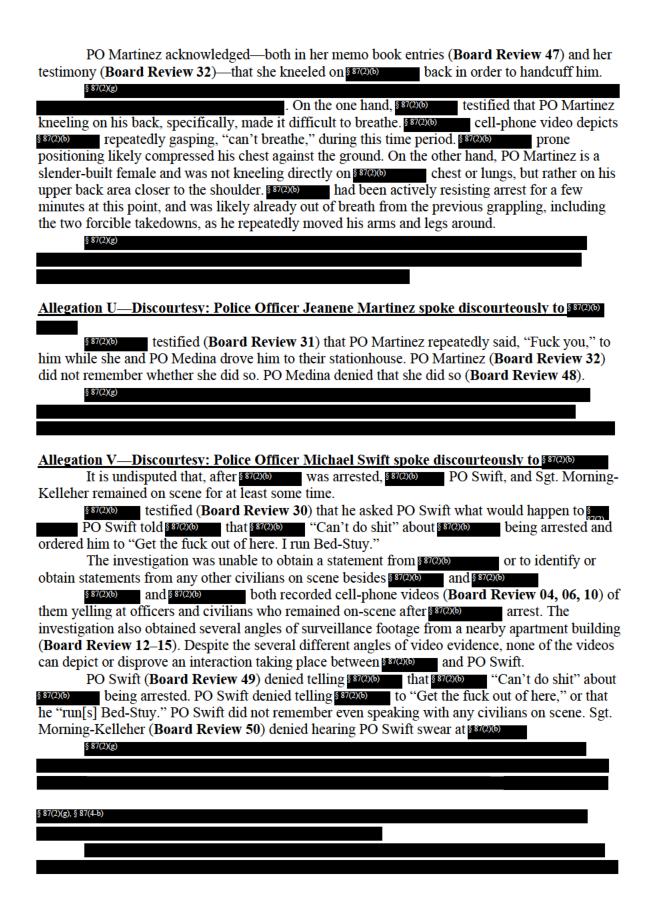


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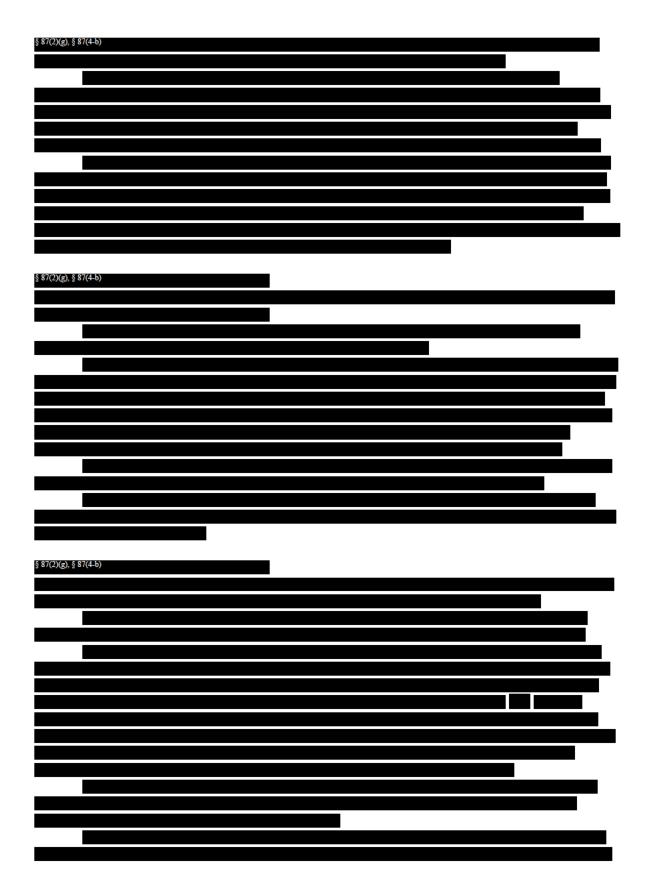
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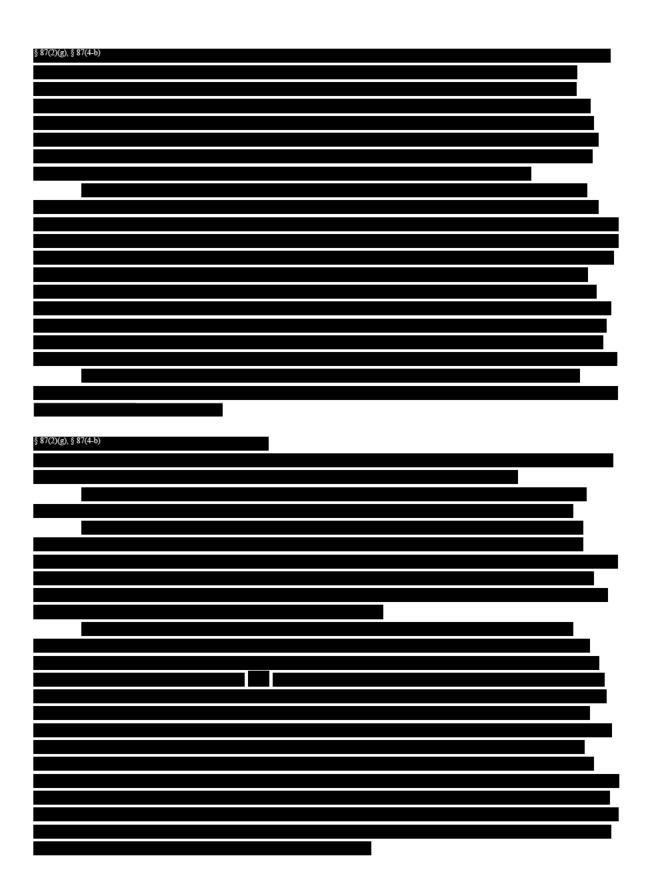












	§ 87(2)(g), § 87(4-b)
	§ 87(2)(g), § 87(4-b)
	Civilian and Officer CCRB Histories
•	This is the first and only CCRB complaint in which [887(2)(b)] (Board Review 62) or
	(Board Review 63) has been a party.
•	PO Mattern has been a member of service for two years and a subject in one other CCRB complaint and three other allegations, one of which was substantiated:

- - CCRB case #201900192 involved a substantiated failure to provide RTKA allegation, an unsubstantiated refusal to provide shield number allegation, \$87(2)(g). The Board recommended Command-Level Instructions. The NYPD does not appear to have imposed any discipline to date.
  - § 87(2)(g)
- PO Romero has been a member of service for three years and a subject in two other CCRB complaints and three other allegations, one of which was substantiated:
  - CCRB case #201900826 involved an unfounded search of recording device and a substantiated entry of premises. The Board recommended Command Discipline B. The NYPD does not appear to have imposed any discipline to date.

O	§ 87(2)(g)			

- PO Martinez has been a member of service for two years and this is the first and only CCRB complaint in which she has been a subject.
- PO Medina has been a member of service for six years and this is the first and only CCRB complaint in which he has been a subject.
- PO Swift has been a member of service for 17 years and a subject in eight other CCRB complaints and 11 other allegations, none of which were substantiated.

## Mediation, Civil and Criminal Histories

- This case was ineligible for mediation.
- As of September 23, 2019, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this complaint (Board Review 64).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]		
quad No.: <u>#06</u>		
4.	I	
nvestigator:	re <u>Investigator Conor O'Shea</u> Print Title & Name	Date
Signatur	Print Title & Name	Date
quad Leader:	Inv. Manager Jessica Peña	
Signatu		Date
leviewer:		
Sionatur	re Print Title & Name	Date